



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

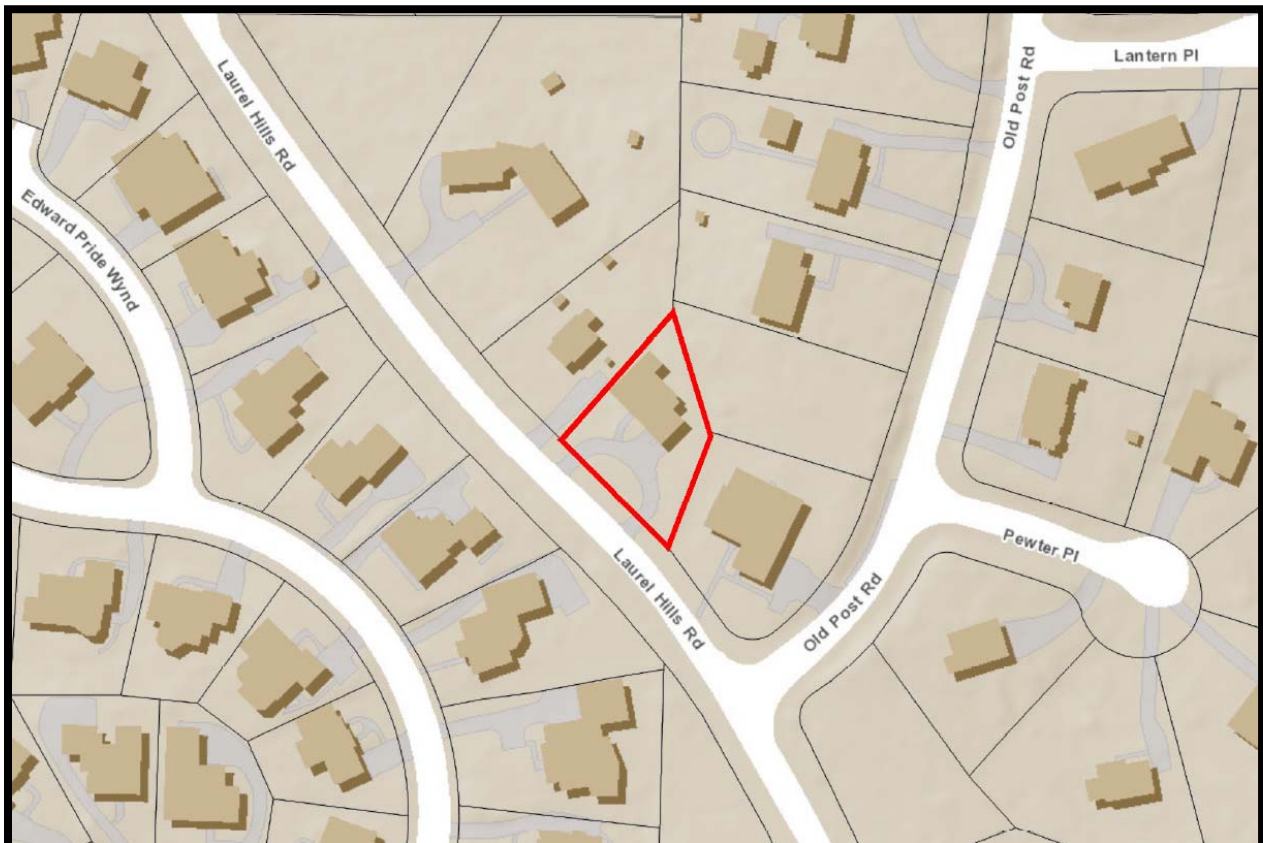
Case File: A-13-18

Property Address: 3704 Laurel Hills Road

Property Owner: Scott and Taryn Connelly

Project Contact: Stephan Safran

Nature of Case: A request for a 13.5' rear yard setback encroachment variance from section 1.5.4.D.1.i. of the Unified Development Ordinance to construct a new deck as well as a 12.75' rear yard setback encroachment variance from section 1.5.4.D.1.i. to construct a new patio which result in an 8.5' rear yard setback for the proposed deck and a 9.25' rear yard setback for the proposed patio on a .25 acre parcel zoned Residential-4 and located at 3704 Laurel Hills Road.

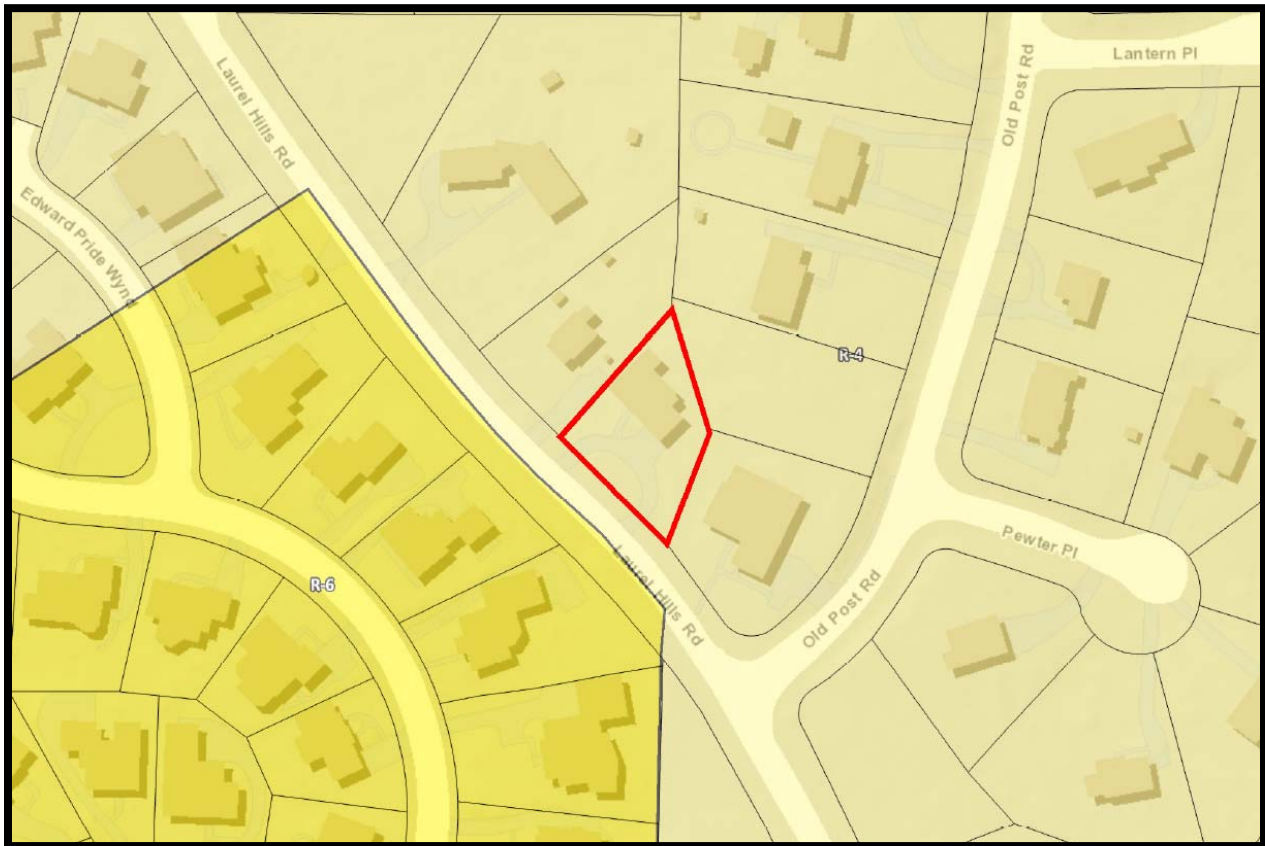


3704 Laurel Hills Road – Location Map

To BOA: 2-12-18

Staff Coordinator: Eric S. Hodge, AICP

**ZONING
DISTRICTS:** Residential-4



3704 Laurel Hills Road - Zoning Map

VARIANCE STANDARDS: In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions

that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

Zoning District Standards: The subject property is zoned Residential-4

Lot Dimensions – R-4

Area (min)	10,000 SF
Width – interior lot (min)	65'
Width – corner lot (min)	80'
Depth -	100'

Yard Type R-6 Minimum Setback (Principal Bldg)

Primary Street	20'
Side Street	15'
Side	10'
Sum of Sides	20'
Rear	30'

Yard Type R-6 Minimum Setback (Accessory)

Primary Street	50'
Side Street	20'
Side	5'
Rear	5'

Section 1.5.4.D. Setback Encroachments

All buildings and structures must be located at or behind required setbacks, except as listed below. Underground structures covered by the ground may encroach into a required setback.

1. Building Features

- a. Porches (raised structures attached to a building forming a covered entrance) may extend up to 9 feet, including the steps, into a required setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- b. Stoops (small raised platforms that serve as entrances to buildings) may extend up to 6 feet into a required setback, provided that the landing is at least 3 feet from the vertical plane of any lot line. Stoops may be covered but cannot be fully enclosed.
- c. Balconies (platforms projecting from the wall of a building with a railing along its outer edge, often accessible from a door or window) may extend up to 6 feet into a required setback, provided that the landing is at least 3 feet from the vertical plane of any lot line. Balconies can be covered but cannot be fully enclosed.
- d. Galleries (covered passages extending along the outside wall of a building supported by arches or columns that are open on 1 side), must have a clear depth from the support columns to the building's façade of at least 8 feet and a clear height above the sidewalk of at least 10 feet. A gallery may extend into a required street setback. A gallery may not extend into a required side setback.
- e. Chimneys or flues may extend up to 4 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- f. Building eaves, roof overhangs, awnings and light shelves may extend up to 5 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- g. Bay windows, oriel, vestibules and similar features that are less than 10 feet wide may extend up to 4 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- h. Unenclosed fire escapes or stairways may extend up to 4 feet into a required side or rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.
- i. Unenclosed patios, decks or terraces may extend up to 4 feet into a required side setback, or up to 8 feet into a required rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.
- j. Cornices, belt courses, sills, buttresses or other similar architectural features may project up to 1½ feet.
- k. Handicap ramps may project to the extent necessary to perform their proper function.
- l. If a variance is not required, a building feature may encroach into the right-of-way, provided a license for the use of the right-of-way is obtained from the City, which is terminable at will by the City.

Application for Variance



RALEIGH
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (if more space is needed, submit addendum on separate sheet): Variance request for UDO Section 1.5.4.D.1.i See attached Addendum A.	Transaction Number A-13-18
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number. See attached Addendum B.	

GENERAL INFORMATION		
Property Address 3704 Laurel Hills Rd, Raleigh, NC 27612	Date 1-8-18	
Property PIN 0785776225	Current Zoning R-4	
Nearest Intersection Laurel Hills Road and Old Post Road	Property size (in acres) .25 acres	
Property Owner Scott and Taryn Connelly	Phone (856) 313-9436	Fax
Owner's Mailing Address 3704 Laurel Hills Rd, Raleigh	Email scott.connelly@weppa.org	
Project Contact Person Stephen Safran	Phone see cover letter	Fax (919)828-7993
Contact Person's Mailing Address See cover letter.	Email stephen@safranlaw.com	
Property Owner Signature <i>Scott V. Connelly</i>	Email scott.connelly@weppa.org	
Notary Sworn and subscribed before me this <u>8TH</u> day of <u>JANUARY</u> , 20 <u>18</u> WAKE COUNTY NORTH CAROLINA	Notary Signature and Seal <i>Perry Owen Wright</i> PERRY OWEN WRIGHT <div style="border: 1px solid black; padding: 5px; text-align: center;">PERRY OWEN WRIGHT NOTARY PUBLIC DURHAM COUNTY, N.C. My Commission Expires 7-19-2022.</div>	

Application for Variance Addendum A

Nature of Variance Request

UDO Sec. 1.5.4.D.1.i

“Unenclosed patios, deck, or terraces may extend up to 4 feet into a required side setback, or up to 8 feet into a required rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.”

See Exhibit “A” attached hereto.

Scott and Taryn Connelly (“Applicants”) are the owners of property located at 3704 Laurel Hills, Raleigh, North Carolina, 27612 (“Property”). Applicants seek a hardship variance of UDO Section 1.5.4.D.1.i to construct a new deck encroaching 13’-6” (13ft – 6in) into the allowable rear setback. The maximum deck encroachment will result in a rear yard setback of 8’-6” (8ft – 6in). Applicants also seek a hardship variance of UDO Section 1.5.4.D.1.i to construct a new patio encroaching 12’-9” (12ft – 9in) into the allowable rear setback. The maximum patio encroachment will result in a rear yard setback of 9’-3” (9ft-3in).

Architectural Elevations of New Structures

The ground at the rear of the property slopes, creating different architectural elevations at each end of the proposed new deck. The lower elevation for the new deck will be approximately 16” (16 in) off the ground. The higher elevation for the new deck will be approximately 32” (32 in) off the ground. The new pergola over the patio area will be approximately 8’ to 9’ (8ft to 9ft) tall.

Additional Notes re: Existing Rear Buffer

Applicants are hiring Bartlett Tree Experts to evaluate and maintain the density and health of the existing Cryptomaria (dense columnar evergreen) hedge buffer along the rear property line. The current Cryptomaria buffer height is approximately 16’ (16ft) tall.

Variance Considerations

1. Unnecessary hardship would result from the strict application of the ordinance.

Strict application of the ordinance would prevent Applicants' use and enjoyment of their backyard.

2. The hardship results from conditions that are peculiar to the property, such as location, size or topography.

Due to a previous recombination, the property is an odd shaped lot. The restrictive covenants for the neighborhood require a 50-foot front setback. The current structure had to be configured in the rear portion of the lot thereby reducing the available rear setback. This limits the available space for additional features in the rear of the lot such as a larger deck and patio.

3. The hardship did not result from actions taken by the applicant or the property owner.

The previous variance was granted in 2008 to 1st American Land Development, LLC. 1st American constructed the existing structure and the Certificate of Occupancy was issued on June 4, 2009. 1st American then sold the Property to Kerry Bird in 2009. Applicant Scott Connelly purchased the Property on May 16, 2013 from Kerry Bird. Therefore, the current hardship did not result from actions taken by the Applicants. A copy of the ownership history and Certificate of Occupancy is attached hereto as Exhibit "B."

4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

The Applicants will maintain the current landscaping features creating a buffer between the Property and adjacent properties (See above note re: existing buffer). The variance, if granted, shall not negatively affect the security of public safety and will achieve substantial justice.

3. Amenity areas installed in conjunction with an apartment or townhouse building type may contain any of the amenities listed above in subsection D.2, as well as courts, pools or fields used for active recreation.
4. All required outdoor amenity areas must provide one linear foot of seating for each 50 square feet of required open space area and one two-inch caliper tree for every 1,000 square feet of required open space area.
5. For all buildings greater than 7 stories in height, the minimum amount of required open space area specified in chapter 3 shall be increased. An additional 50 square feet of amenity area is required for each building story above the seventh story. In no case shall the required amenity area exceed 12% of the gross site area.

Sec. 1.5.4. Building Setbacks

A. Setback Types

There are 4 types of setback – primary street setback, side street setback, side setback and rear setback. Through lots are considered to have 2 primary street setbacks.

B. Measurement of Building Setbacks

1. Primary and side street setbacks are measured perpendicular from the edge of the existing or proposed right-of-way, whichever is greater.
2. Side setbacks are measured perpendicular from the side property line.
3. Rear setbacks are measured perpendicular from the rear property line or the edge of the existing or proposed right-of-way, whichever is greater, where there is an alley.

C. Multiple Street Frontage Lots

A multiple street frontage lot must designate at least 1 primary street. A lot may have more than 1 primary street. The Planning and Development Officer will determine which street or streets are the primary streets based on:

1. The street with the highest street classification;
2. The established orientation of the block;
3. The street abutting the longest face of the block;

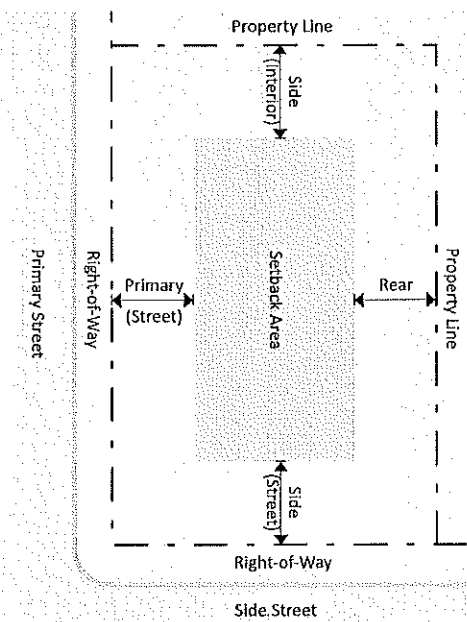
4. The street parallel to an alley within the block; and
5. The street that the lot takes its address from.

D. Setback Encroachments

All buildings and structures must be located at or behind required setbacks, except as listed below. Underground structures covered by the ground may encroach into a required setback.

1. Building Features

- a. Porches (raised structures attached to a building forming a covered entrance) may extend up to 9 feet, including the steps, into a required setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- b. Stoops (small raised platforms that serve as entrances to buildings) may extend up to 6 feet into a required setback, provided that the landing is at least 3 feet from the vertical plane of any lot line. Stoops may be covered but cannot be fully enclosed.
- c. Balconies (platforms projecting from the wall of a building with a railing along its outer edge, often accessible from a door or window) may extend up to 6 feet into a required setback, provided that the landing is at least 3 feet from the vertical plane of any lot line. Balconies can be covered but cannot be fully enclosed.



- d. Galleries (covered passages extending along the outside wall of a building supported by arches or columns that are open on 1 side), must have a clear depth from the support columns to the building's façade of at least 8 feet and a clear height above the sidewalk of at least 10 feet. A gallery may extend into a required street setback. A gallery may not extend into a required side setback.
 - e. Chimneys or flues may extend up to 4 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.
 - f. Building eaves, roof overhangs, awnings and light shelves may extend up to 5 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.
 - g. Bay windows, oriels, vestibules and similar features that are less than 10 feet wide may extend up to 4 feet, provided that such extension is at least 3 feet from the vertical plane of any lot line.
 - h. Unenclosed fire escapes or stairways may extend up to 4 feet into a required side or rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.
 - i. Unenclosed patios, decks or terraces may extend up to 4 feet into a required side setback, or up to 8 feet into a required rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.
 - j. Cornices, belt courses, sills, buttresses or other similar architectural features may project up to 1½ feet.
 - k. Handicap ramps may project to the extent necessary to perform their proper function.
 - l. If a variance is not required, a building feature may encroach into the right-of-way, provided a license for the use of the right-of-way is obtained from the City, which is terminable at will by the City.
- 2. Mechanical Equipment and Utility Lines**
- a. Mechanical equipment associated with residential uses, such as HVAC units and security lighting, may extend into a required rear or side setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.

- b. Solar panels or wind turbines may extend into a required rear or side setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- c. Rainwater collection or harvesting systems may extend into a required rear or side setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- d. Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes and transformers and other cabinet structures) may extend into a required rear or side setback.

E. Other Setback Encroachments

1. Fence and walls under Sec. 7.2.8.
2. Signs under Article 7.3. Signs.
3. Driveways under Sec. 8.3.5. Site Access.
4. Transitional and street protective yards under Sec. 7.2.4.

Sec. 1.5.5. Parking Setbacks

A. Parking Setback Types

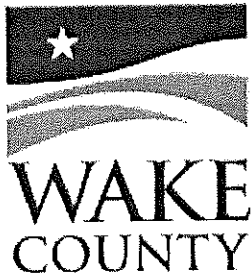
There are 4 types of parking setback – primary street setback, side street setback, side setback and rear setback. Through lots are considered to have 2 primary street setbacks.

B. Measurement of Parking Setbacks

1. Primary and side street setbacks are measured perpendicular from the edge of the existing or proposed right-of-way, whichever is greater.
2. Side setbacks are measured perpendicular from the side property line.
3. Rear setbacks are measured perpendicular from the rear property line or the edge of the existing or proposed right-of-way, whichever is greater, where there is an alley.

C. Parking Not Allowed

On-site surface and structured parking must be located behind the parking setback line, where applicable. This requirement does not apply to on-street parking or apply to upper stories of a parking deck.

[Home](#)

Wake County Real Estate Data Ownership History

[iMaps](#)
[Tax Bills](#)

Real Estate ID 0066464 PIN # 0785776225

[Account Search](#)

Location Address 3704 LAUREL HILLS RD Property Description LO1 CARRIAGE HILLS BM2005-02114

[Pin/Parcel History](#) [Search Results](#) [New Search](#)[NORTH CAROLINA](#) [Account](#) | [Buildings](#) | [Land](#) | [Deeds](#) | [Notes](#) | [Sales](#) | [Photos](#) | [Tax Bill](#) | [Map](#)

	Owner Name	Type	% Own	Stamps	Book	Page	Date
Current	CONNELLY, SCOTT & TARYN MEDLIN		ALL		15529	0258	12-12-2013
1 Back	CONNELLY, SCOTT		ALL	1020.00	15274	0001	05-16-2013
2 Back	BIRD, KERRY D		ALL	939.00	13570	1007	06-05-2009
3 Back	1ST AMERICAN LAND DEVELOPMENT LLC		ALL		12784	2192	10-08-2007
4 Back	1ST AMERICAN BUILDERS LLC		ALL	650.00	12381	2272	01-31-2007
5 Back	LAMPE, ROSS W & J GRAVES VANN JR		GROUP	12.00	05374	0303	10-26-1992
	LAMPE, ROSS W J GRAVES VANN JR		ABOVE				
6 Back	SPIKES, HENRY R		ALL		01944	0508	01-01-1970

*Wake County assessed building and land values reflect the market value as of January 1, 2016, which is the date of the last county-wide revaluation. Any inflation, deflation or other economic changes occurring after this date does not affect the assessed value of the property and cannot be lawfully considered when reviewing the value for adjustment.

The January 1, 2016 values will remain in effect until the next county-wide revaluation. Until that time, any real estate accounts created or new construction built is assessed according to the 2016 Schedule of Values.

For questions regarding the information displayed on this site, please contact the Revenue Department at RevHelp@wakegov.com or call 919-856-5400.





City of Raleigh, North Carolina
Inspections Department
Certificate of Occupancy

This is to certify that all required building code inspections have been completed on this structure and all known code violations discovered during such inspections have been duly noted, ordered corrected and have been reinspected. As a result of the inspections made, work performed under this permit has been found to be in substantial compliance with the applicable building codes.

This certificate authorizes occupancy.

Owner: 1ST AMERICAN LAND DEVELOPMENT LLC

Property Address: 3704 LAUREL HILLS RD

City Limits: Inside

Subdivision Name: LAMPE PROPERTIES LOTS 1,2 & 3

Lot Number: 0001

Tenant Name:

Approved Use: SFD

Zoning: FORMER: RESIDENTIAL-4

Fire District: 0

Water:

Sewer:

Classification of Construction:

Units: 1

Handicapped: 0

Comments:

Contractor: 1ST AMERICAN BUILDERS LLC
2514 RELIANCE AVE
APEX, NC 27539

Authorized
Permits: Right of Way
59523 # 59524
Electrical
94141
Mechanical
84389
Plumbing
72846
Building
71613
Zoning
13945

**Application for Variance
Addendum B**

Previous Variance Request for 3704 Laurel Hills Rd

The Property is subject to a previous variance request. On April 14, 2008, the Raleigh Board of Adjustment approved a 15-foot rear yard setback variance for the Property. The minutes from the April 14, 2008 Board of Adjustment were recorded with the Wake County Register of Deeds at Book of Maps 014324, Pages 01743 – 01751, and are attached hereto as Exhibit “A.” The property owner at that time, 1st American Land Development, LLC, constructed a dwelling on the residence maintaining a 15-foot setback from the rear property line and met all of the conditions imposed by the Board of Adjustment.



BK014324PG01743

www.raleighnc.gov



RETURN TO: Greg Karl
Fonville Morison
7980 Arco Corporate Dr.
Raleigh, NC 27617

City Of Raleigh
NORTH CAROLINA

WAKE COUNTY, NC 232
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
04/15/2011 AT 13:35:16

(STATE OF NORTH CAROLINA

COUNTY OF WAKE)

BOOK:014324 PAGE:01743 - 01751

CERTIFICATION

I, Ralph L. Puccini, Assistant Deputy Clerk of the City of Raleigh, North Carolina,

do hereby certify that the attached is a true and exact copy

of an excerpt from the minutes of a meeting of

the Raleigh Board of Adjustment held April 14, 2008 regarding

BOARD OF ADJUSTMENT CASE A-32-08 - 3704 Laurel Hills Road

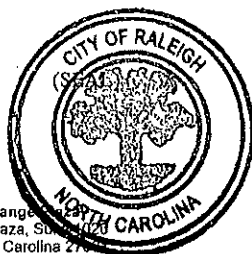
granting a Variance to 1st American Land Development, LLC, property owner,

of 15 -feet in the rear yard setback requirements per Code Section 10-2075

to build a new dwelling in the Residential-4 zoning district at 3704 Laurel Hills Road

with conditions as outlined in the attached minutes.

IN WITNESS WHEREOF, I have hereunto set my hand and have caused
the Seal of the City of Raleigh, North Carolina to be affixed this 13th day of April, 2011.





Ralph L. Puccini
Assistant Deputy Clerk
& Clerk to the Board of Adjustment

One Exchange
1 Exchange Plaza, Suite 1020
Raleigh, North Carolina 27601

City of Raleigh
Post Office Box 590 • Raleigh
North Carolina 27602-0590
(Mailing Address)

Printed on Recycled Paper

Municipal Building
222 West Hargett Street
Raleigh, North Carolina 27601

**EXCERPT FROM MINUTES OF APRIL 14, 2008
RALEIGH BOARD OF ADJUSTMENT MEETING**

PAGE 1 OF 7

A-37-08 – 4/14/08

DECISION: Approved with the following conditions (PIN 0785-77-7119 is referred to as the "Griffin Residence Parcel" and 0785-77-7249 as the "Griffin Adjoining Parcel):

1. Prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, there shall be constructed and thereafter maintained upon the Property along its boundary with the Griffin Adjoining Parcel a closed wooden fence a minimum of six (6) feet in height substantially identical in design and material to the fence upon the Griffin Residence Parcel along its boundary with the Property. The fence constructed upon the Property in accordance with this condition shall tie into the fence now existing upon the Griffin Residence Parcel. In the event the owner of the Griffin Adjoining Parcel shall desire to construct a fence along the northern boundary of its property, it shall have the right to tie into the fence constructed upon the Property in accordance with this condition.
2. On or before May 30, 2008, one cryptomaria japonica plant a minimum of six (6) feet in height shall be planted five (5) feet from each end of the row of cryptomaria japonica plants on the Griffin Residence Parcel along its boundary with the Property. From the point at the intersection of the boundaries of the Property, the Griffin Residence Parcel and the Griffin Adjoining Parcel, prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, cryptomaria japonica plants (or a similar species acceptable to the owner of the Griffin Residence Parcel) a minimum of six (6) feet in height shall be planted and thereafter maintained at intervals of five (5) feet upon the Property along its boundary with the Griffin Adjoining Parcel inside the fence to be constructed upon the Property in accordance with the foregoing condition 1.
3. Prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, the owner of the Property shall remove all pine trees upon the Property within fifteen (15) feet of its boundary line with the Griffin Residence Parcel. Prior to such issuance, the owner of the Property at its sole cost and expense shall also remove from the Griffin Adjoining Parcel six (6) pine trees designated by the owner of the Griffin Adjoining Parcel. The owner of the Property shall also remove at such time any additional pine trees on the Griffin Adjoining Parcel designated by the owner of the Griffin Adjoining Parcel with such owner to pay the owner of the Property its actual cost in removing such additional trees.

**EXCERPT FROM MINUTES OF APRIL 14, 2008
RALEIGH BOARD OF ADJUSTMENT MEETING**

PAGE 2 OF 7

4. Any building constructed upon the Property shall have a building footprint substantially in accordance with that shown on Exhibit A attached hereto. The elevations of any building constructed upon the Property shall be substantially as shown in Exhibit B attached hereto. The builder of any such building may, in its discretion, use more brick in the facades of such building than is shown on Exhibit B.
5. On the second floor, any building constructed upon the Property shall have only one single window facing the Griffin Residence Parcel. This window shall not exceed two (2) feet eight (8) inches by five (5) feet two (2) inches in size.
6. That the variance be recorded with the Wake County Register of Deeds.

WHEREAS, 1st American Land Development, LLC, property owner, appeals for a 15-foot variance in the rear yard setback requirements per Code Section 10-2075 to build a new dwelling in the Residential-4 zoning district at 3704 Laurel Hills Road.

Chief Zoning Inspector Fulcher (sworn) gave the following testimony.

The applicant is requesting a 15-foot variance in the 30-foot rear yard setback to build a new dwelling in the Residential-4 zoning district. This lot went thru an infill recombination in 2005 to expand the size of the lot. The planning Commission approved the recombination with the condition that Lot 1 meets the restrictive covenants of Carriage Hills except for the minimum lot size. The restrictive covenants carry a 50-foot front yard setback and 15-foot side yard setbacks.

Based on the approval conditions the lot is subject to the additional setback requirements in the covenants and the City Code rear yard setback of 30 feet. Staff is opposed to this request.

Applicant

Attorney Lacy Reaves, Kennedy, Covington, Lobdel, Hickman (sworn) indicated he is representing the property owners. He noted the lot is infill recombination that is slightly over .25 acre. He noted the lots were made a part of the Carriage Hill Subdivision with restrictions on height and front yard setback set at 50 feet. He noted in addition there is a 30' rear yard setback noting with the odd shape of the lot the 30' rear yard setback creates a hardship in that the owners are left with a triangular shaped envelope. He indicated the proposed dwelling would meet the height and front yard setback requirements and would be located 45 feet from the left rear corner of the property. He submitted elevated drawings of the proposed dwelling and submitted a list of proposed conditions as follows:

**EXCERPT FROM MINUTES OF APRIL 14, 2008
RALEIGH BOARD OF ADJUSTMENT MEETING**

PAGE 3 OF 7

**Proposed Conditions with Respect to
Board of Adjustment Case A-37-08 —3704 Laurel Hills Road**

Based upon conversations with Mr. and Mrs. Robert S. Griffin, the owners of adjoining parcels PIN 0785-77-7119 (the "Griffin Residence Parcel") and 0785-77-7249 (the "Griffin Adjoining Parcel"), the petitioner proposes the following conditions with respect to its application for a variance in Board of Adjustment Case A-37-08 dealing with the parcel at 3704 Laurel Hills Road assigned parcel identification number 0785-77-6225 (the "Property"):

1. Prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, there shall be constructed and thereafter maintained upon the Property along its boundary with the Griffin Adjoining Parcel a closed wooden fence a minimum of six (6) feet in height substantially identical in design and material to the fence upon the Griffin Residence Parcel along its boundary with the Property. The fence constructed upon the Property in accordance with this condition shall tie into the fence now existing upon the Griffin Residence Parcel. In the event the owner of the Griffin Adjoining Parcel shall desire to construct a fence along the northern boundary of its property, it shall have the right to tie into the fence constructed upon the Property in accordance with this condition.
2. Prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, one cryptamaria japonica plant a minimum of six (6) feet in height shall be planted five (5) feet from each end of the row of cryptamaria japonica plants on the Griffin Residence Parcel along its boundary with the Property. From the point at the intersection of the boundaries of the Property, the Griffin Residence Parcel and the Griffin Adjoining Parcel, cryptamaria japonica plants (or a similar species acceptable to the owner of the Griffin Residence Parcel) a minimum of six (6) feet in height shall be planted and thereafter maintained at intervals of five (5) feet upon the Property along its boundary with the Griffin Adjoining Parcel inside the fence to be constructed upon the Property in accordance with the foregoing condition 1.
3. Prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, the owner of the Property shall remove all pine trees upon the Property within fifteen (15) feet of its boundary line with the Griffin Residence Parcel. Prior to such issuance, the owner of the Property at its sole cost and expense shall also remove from the Griffin Adjoining Parcel six (6) pine trees designated by the owner of the Griffin Adjoining Parcel. The owner of the Property shall also remove at such time any additional pine trees on the Griffin Adjoining Parcel designated by the owner of the Griffin Adjoining Parcel with such owner to pay the owner of the Property its actual cost in removing such additional trees.
4. Any building constructed upon the Property shall have a building footprint substantially in accordance with that shown on Exhibit A attached hereto. The elevations of any building constructed upon the Property shall be substantially as shown in Exhibit

**EXCERPT FROM MINUTES OF APRIL 14, 2008
RALEIGH BOARD OF ADJUSTMENT MEETING**

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B attached hereto. The builder of any such building may, in its discretion, use more brick in the facades of such building than is shown on Exhibit B.

5. On the second floor, any building constructed upon the Property shall have only one single window facing the Griffin Residence Parcel. This window shall not exceed two (2) feet eight (8) inches by five (5) feet two (2) inches in size.

Mr. Coble questioned how the restrictive covenants were applied in this case with Mr. Reaves responding the proposed dwelling would be built as exactly proposed in the footprint and elevations.

Mr. Coble questioned whether the setbacks were the result of the recombination with Mr. Reaves responding in the affirmative. He noted the declaration of the imposed setbacks can be modified but it requires a vote of 50 percent plus 1 of the property owners in the subdivision. Mr. Coble questioned if the Board could grant a variance in the 50 foot front yard setback with Mr. Silverstein indicated the Board cannot vary a condition that has been set by the Planning Commission. Mr. Reaves indicated he would like to make a change to Condition #2 in the fact that there are changes in the timeframe for which the plantings are done and the number of plants to be planted.

Mr. Coble questioned how the 50-foot setback issue could be revisited with the Planning Commission with Mr. Reaves responding that to do so would require a new rezoning application, public hearings and notification of various property owners. Mr. Figgins questioned who brought up the issue of the 50-foot setback with Mr. Reaves responding it was part of the staff's report.

Brief discussion took place as to whether the plat was recorded and whether a member of City staff had signed the plat with Mr. Reaves pointing out the recorded plat was signed by the City's Planning Director. Further discussion took place regarding the imposed setbacks.

Bob Griffin (sworn) indicated the presentation was accurately presented and that he and his wife support the petition for the variance with the conditions noted. He pointed out the subject property was made subject to the Carriage Hill Subdivision conditions as it was once part of their property.

Opposition

None.

Findings of Fact

1. Applicant seeks a variance from Raleigh City Code Section 10-2075 to erect a dwelling.

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2. The Board has considered Applicant's verified application and the evidence and testimony adduced at the hearing.
3. In order to comply with Raleigh City Code Section 10-2075, Applicant would have to provide a 30' rear yard setback.
4. Applicant is unable to comply with Raleigh City Code Section 10-2075 because the irregular shape of the lot prevents the provision of a 30' rear yard setback.
5. The subject lot is part of an infill recombination.
6. As a condition for the recombination, Applicant was required to provide a 50-foot front yard setback.
7. Due to the triangular shape of the lot, if applicant meets the 50-foot front yard setback requirements, it is impractical to erect a house on the lot that both meets the 30' rear yard setback and is compatible with other structures in the area.
8. Strict compliance with the provisions of the ordinance would deprive Applicant from the reasonable use of the property.
9. The Applicant's actions did not create the hardship or the practical difficulties.
10. The character of surrounding properties would not be adversely affected by the granting of the variance.
11. Denial of the variance would result in insignificant public benefit but would greatly harm Applicant.
12. Pursuant to Raleigh City Code Section 10-2141(b), the Board has considered the following relevant factors:
 - (a) The character and use of buildings and structures adjoining or in the vicinity of the property mentioned in the application.
 - (b) The number of persons residing, studying, working in or otherwise occupying buildings adjoining or in the vicinity of the property mentioned in the application.

Conclusions of Law

1. There are practical difficulties or unnecessary hardships in complying with the strict letter of the ordinance.
2. The variance is in accordance with the general purpose and intent of the ordinance and preserves its spirit.
3. The granting of the variance secures the public safety and welfare and does substantial justice.
4. It is necessary and appropriate to impose the following conditions and safeguards on the issuance of the special use permit:
 1. Prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, there shall be constructed and thereafter maintained upon the Property along its boundary with the Griffin Adjoining Parcel a closed wooden fence a minimum of six (6) feet in height substantially identical in design and material to the fence upon the Griffin Residence Parcel along its boundary with the Property. The fence constructed upon the Property in accordance with this condition shall tie into the fence now existing upon the Griffin Residence Parcel. In the event

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the owner of the Griffin Adjoining Parcel shall desire to construct a fence along the northern boundary of its property, it shall have the right to tie into the fence constructed upon the Property in accordance with this condition.

2. On or before May 30, 2008, one cryptamaria japonica plant a minimum of six (6) feet in height shall be planted five (5) feet from each end of the row of cryptamaria japonica plants on the Griffin Residence Parcel along its boundary with the Property. From the point at the intersection of the boundaries of the Property, the Griffin Residence Parcel and the Griffin Adjoining Parcel, prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, cryptamaria japonica plants (or a similar species acceptable to the owner of the Griffin Residence Parcel) a minimum of six (6) feet in height shall be planted and thereafter maintained at intervals of five (5) feet upon the Property along its boundary with the Griffin Adjoining Parcel inside the fence to be constructed upon the Property in accordance with the foregoing condition 1.
3. Prior to the issuance of a certificate of occupancy with respect to any building constructed upon the Property, the owner of the Property shall remove all pine trees upon the Property within fifteen (15) feet of its boundary line with the Griffin Residence Parcel. Prior to such issuance, the owner of the Property at its sole cost and expense shall also remove from the Griffin Adjoining Parcel six (6) pine trees designated by the owner of the Griffin Adjoining Parcel. The owner of the Property shall also remove at such time any additional pine trees on the Griffin Adjoining Parcel designated by the owner of the Griffin Adjoining Parcel with such owner to pay the owner of the Property its actual cost in removing such additional trees.
4. Any building constructed upon the Property shall have a building footprint substantially in accordance with that shown on Exhibit A attached hereto. The elevations of any building constructed upon the Property shall be substantially as shown in Exhibit B attached hereto. The builder of any such building may, in its discretion, use more brick in the facades of such building than is shown on Exhibit B.
5. On the second floor, any building constructed upon the Property shall have only one single window facing the Griffin Residence Parcel. This window shall not exceed two (2) feet eight (8) inches by five (5) feet two (2) inches in size.
6. That the variance be recorded with the Wake County Register of Deeds.

Motion

Ms. Flynn made a motion to approve the variance as requested with the conditions submitted by the applicant as amended. Mr. McBennett questioned Ms. Flynn would accept a friendly amendment that additional conditions be added that the variance be

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recorded with the Wake County Register of Deeds so that the property would reflect the proposed imposed setbacks of Carriage Hills with Ms. Flynn responding she would accept a friendly amendment. Mr. Van de Carr seconded the motion and the motion as amended received the following vote: Ayes - 5 (McBennett, Van de Carr, Flynn, Coble, Morrison); Noes - none.



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Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

NP

This Document
_____ New Time Stamp
_____ # of Pages

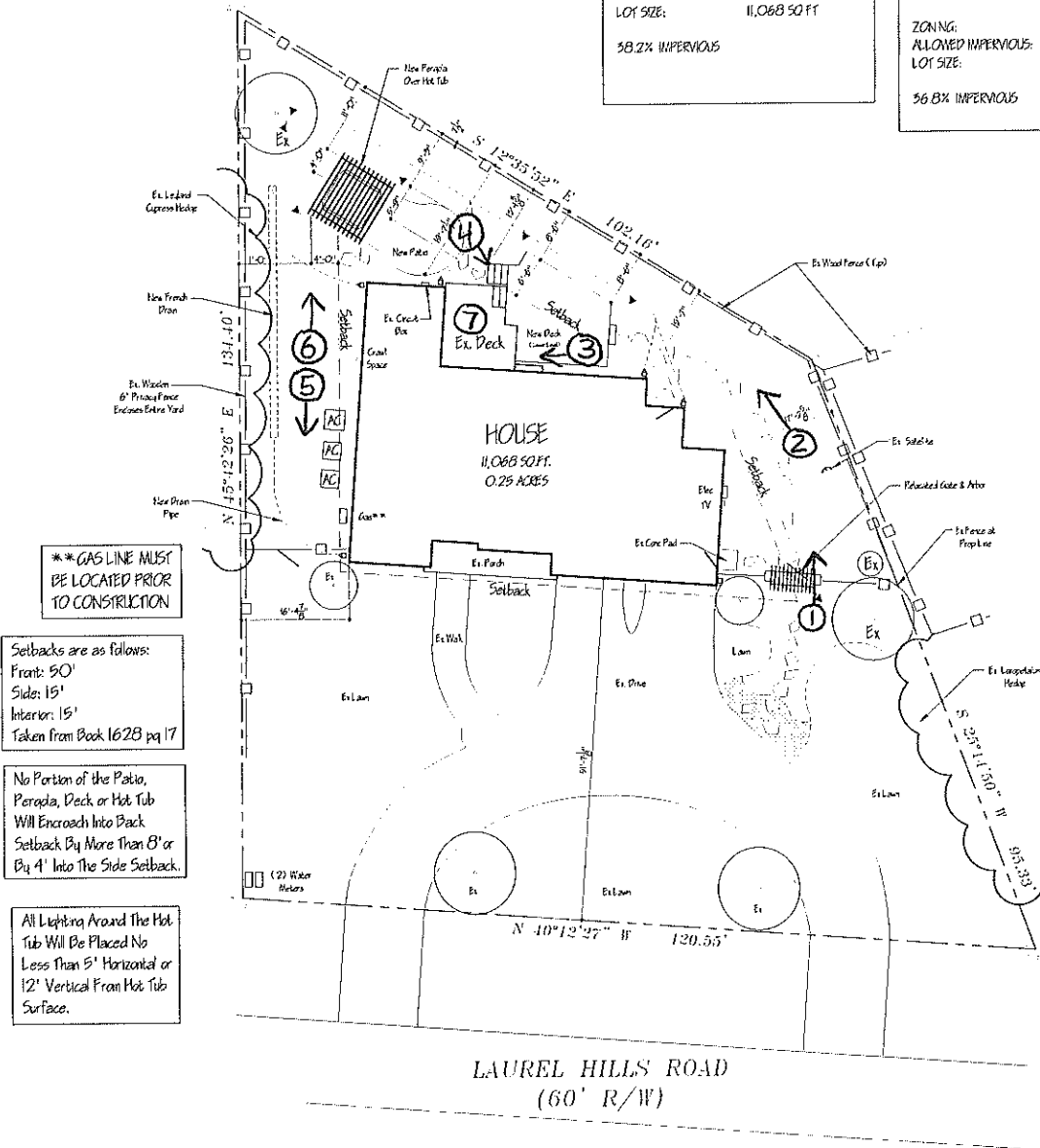
9

2

Photograph Images 1-7 Locations and Reference Points

EXISTING IMPERVIOUS AREA	
HOUSE:	1,785 SQ.FT.
PATIO:	520 SQ.FT.
DRIVE / WALK:	1899 SQ.FT.
DECK (50%):	62.5 SQ.FT.
TOTAL:	4,222.9 SQ.FT.
ZONING:	R-4
ALLOWED IMPERVIOUS:	38% (4,205 SQ.FT.)
LOT SIZE:	11,068 SQ.FT.
38.2% IMPERVIOUS	

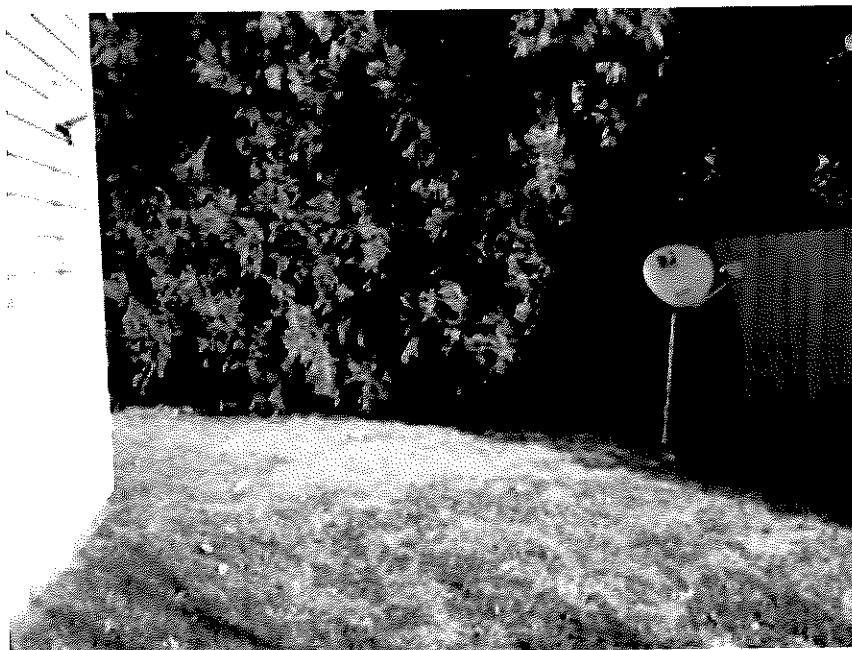
NEW IMPERVIOUS AREA	
HOUSE:	1,785 SQ.FT.
PATIO:	211 SQ.FT.
SIDE STROOP / AC PADS:	32 SQ.FT.
DRIVE:	1,718 SQ.FT.
EX. DECK (50%):	62.5 SQ.FT.
NEW DECK (50%):	124 SQ.FT.
WALK:	157 SQ.FT.
TOTAL:	4,069.5 SQ.FT.
ZONING:	R-4
ALLOWED IMPERVIOUS:	38% (4,205 SQ.FT.)
LOT SIZE:	11,068 SQ.FT.
36.8% IMPERVIOUS	



Scott & Taryn Connelly
 3704 Laurel Hills Dr
 Raleigh, NC



Scale: $\frac{1}{8} = 1'-0''$



3704 Laurel Hills Rd - Image 1



3704 Laurel Hills Rd - Image 2



3704 Laurel Hills Rd - Image 3
Existing Deck and Patio



3704 Laurel Hills Rd - Image 4
Existing Deck and Patio



3704 Laurel Hills Rd - Image 5



3704 Laurel Hills Rd - Image 6



3704 Laurel Hills Rd - Image 7

View from existing deck looking towards rear property line

0785776225

CONNELLY, SCOTT CONNELLY, TARYN
MEDLIN
3704 LAUREL HILLS RD
RALEIGH NC 27612-4209

0785766889

EATMAN, JEROME R JR LYNCH, MARIA M
3625 LAUREL HILLS RD
RALEIGH NC 27612-4206

0785774167

BREARLEY, MATTHEW RICHARD BLAIR,
BRITTANY HUNTER
3916 CITY OF OAKS WYND
RALEIGH NC 27612-5307

0785774203

MARSHALL, ELAINE F
3920 CITY OF OAKS WYND
RALEIGH NC 27612-5307

0785775061

DUNCAN, ALLYSON K WEBB, WILLIAM A
3908 CITY OF OAKS WYND
RALEIGH NC 27612-5307

0785775151

ROBERTS, DEWEY SAMUEL II ROBERTS,
KELLY
3912 CITY OF OAKS WYND
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0785775393

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0785775464

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ISABELLA T
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0785777119

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0785777249

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